

## Senate Bill 393

By: Senators Heath of the 31st, Mullis of the 53rd, Jackson of the 24th, Butterworth of the 50th, Rogers of the 21st and others

## A BILL TO BE ENTITLED

## AN ACT

1 To amend Chapter 2 of Title 2 of the Official Code of Georgia Annotated, relating to the  
2 Department of Agriculture, so as to provide for the appointment of the Commissioner of  
3 Agriculture; to provide for Senate confirmation; to fix the salary of the Commissioner of  
4 Agriculture; to amend Article 2 of Chapter 2 of Title 20 of the Official Code of Georgia  
5 Annotated, relating to the State School Superintendent, so as to provide for the appointment  
6 of the State School Superintendent; to provide for Senate confirmation; to set the salary of  
7 the State School Superintendent; to amend Title 21 of the Official Code of Georgia  
8 Annotated, relating to elections, so as to amend certain provisions regarding elections and  
9 primaries generally; to provide who is elected on certain election dates; to provide for what  
10 offices an individual may be nominated or be a candidate at any one election; to provide for  
11 the issuance of certificates of election and commission; to amend certain provisions relating  
12 to campaign contributions; to amend Chapter 2 of Title 34 of the Official Code of Georgia  
13 Annotated, relating to the Department of Labor, so as to provide for the appointment of the  
14 Commissioner of Labor; to provide for Senate confirmation; to provide for the salary for the  
15 Commissioner of Labor; to amend Title 45 of the Official Code of Georgia Annotated,  
16 relating to public officers and employees, so as to amend certain provisions regarding the  
17 temporary disabilities of elected constitutional officers; to provide for the appointment of  
18 such officers during temporary disability; to amend general provisions regarding salaries and  
19 fees so as to provide for the compensation and annual salaries of certain state officials; to  
20 amend certain provisions relating to powers and duties of the Governor so as to remove  
21 certain provisions regarding the incapacity of the Commissioner of Insurance; to remove  
22 certain provisions regarding proceedings relative to incapacity of the Commissioner of  
23 Insurance; to amend certain provisions relating to general provisions regarding the  
24 Commissioner of Insurance so as to provide for the appointment of the Commissioner of  
25 Insurance; to provide for Senate confirmation; to provide for the salary of the Commissioner  
26 of Insurance; to provide for related matters; to repeal conflicting laws; and for other  
27 purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Chapter 2 of Title 2 of the Official Code of Georgia Annotated, relating to the Department of Agriculture, is amended by revising Code Section 2-2-2, relating to the qualification and election of the Commissioner of Agriculture, as follows:

"2-2-2.

The department shall be under the control and management of the Commissioner of Agriculture, who shall be a practical farmer, ~~elected by qualified voters at the same time, in the same manner, and under the same rules and regulations as the Governor and statehouse officers are elected~~ appointed by the Governor to serve at his or her pleasure. The Senate shall conduct a hearing during the next legislative session to review the Governor's appointee and shall subsequent to such hearing conduct a vote to confirm such appointee. The Commissioner elected in the general election in November, 2010, shall continue to serve until the expiration of his or her term and upon the expiration of such term or the vacancy of such office otherwise occurring his or her successor shall be appointed pursuant to this Code section. The office of the Commissioner shall be at the capital of the state."

**SECTION 2.**

Said chapter is further amended by revising Code Section 2-2-3, relating to term of office of the Commissioner of Agriculture, as follows:

"2-2-3.

The term of office of the Commissioner shall be for four years or until his or her successor is ~~elected and qualified~~ appointed by the Governor, unless he or she is removed in the manner prescribed by law for the removal of officers of the state government."

**SECTION 3.**

Said chapter is further amended by revising subsection (a) of Code Section 2-2-4, relating to the salary of the Commissioner of Agriculture, as follows:

"(a) The annual salary of the Commissioner shall be ~~as provided in Code Sections 45-7-3 and 45-7-4~~ set by the Governor. The Commissioner shall be entitled to reimbursement of expenses as provided by Code Section 45-7-20."

**SECTION 4.**

Article 2 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to the State School Superintendent, is amended by revising Code Section 20-2-30, relating to the election of the State School Superintendent, as follows:

"20-2-30.

The State School Superintendent shall be ~~elected by the persons qualified to vote for members of the General Assembly at the same time and in the same manner and for the same term as the Governor is elected~~ appointed by the Governor to serve at his or her pleasure. The Senate shall conduct a hearing during the next legislative session to review the Governor's appointee and shall subsequent to such hearing conduct a vote to confirm such appointee. The Superintendent elected in the general election in November, 2010, shall continue to serve until the expiration of his or her term and upon the expiration of such term or the vacancy of such office otherwise occurring his or her successor shall be appointed pursuant to this Code section. A suitable office shall be furnished him or her at the seat of government. He or she shall prescribe suitable forms for the reports required of subordinate school officers and blanks for their guidance in transacting their official business and shall from time to time prepare and transmit to them such instructions as he or she may deem necessary for the faithful and efficient execution of the school laws; and by what is thus communicated to them they shall be bound to govern themselves in the discharge of their official duties, provided there shall always be an appeal from the State School Superintendent to the State Board of Education."

**SECTION 5.**

Said article is further amended by revising Code Section 20-2-33, relating to the compensation and expenses for the State School Superintendent, as follows:

"20-2-33.

The compensation for the State School Superintendent shall be ~~compensated as provided in Code Sections 45-7-3 and 45-7-4 set by the Governor.~~ He or she shall also be reimbursed for his or her expenses incurred in connection with the official duties of his or her office as provided in Code Section 45-7-21."

**SECTION 6.**

Title 21 of the Official Code of Georgia Annotated, relating to elections, is amended in Article 1 of Chapter 2, relating to general provisions regarding elections and primaries, by revising subsection (a) of Code Section 21-2-9, relating to date of election for offices, as follows:

"(a) The Governor, Lieutenant Governor, Secretary of State, Attorney General, ~~State School Superintendent, Commissioner of Insurance, Commissioner of Agriculture, Commissioner of Labor,~~ members of Congress, Justices of the Supreme Court, Judges of the Court of Appeals, judges of the superior courts, district attorneys, members of the General Assembly, and county officers shall be elected in the November election next preceding the expiration of the term of office."

#### SECTION 7.

Said title is further amended in Part 1 of Article 4 of Chapter 2, relating to general provisions regarding selection and qualification of candidates and presidential electors, by revising Code Section 21-2-136, relating to the number of offices for which an individual may be nominated at any one election, as follows:

"21-2-136.

No person shall be nominated, nor shall any person be a candidate in a primary, election, or special election, for more than one of the following public offices to be filled at any one election or special election: Governor, Lieutenant Governor, Secretary of State, Attorney General, ~~State School Superintendent, Commissioner of Insurance, Commissioner of Agriculture, Commissioner of Labor,~~ United States senator or representative in Congress, Public Service Commissioner, Justice of the Supreme Court, Judge of the Court of Appeals, members of the Senate and House of Representatives of the General Assembly, judge of superior court, district attorney, any elected county officer, and any elected municipal officer."

#### SECTION 8.

Said title is further amended in Article 12 of Chapter 2, relating to returns, by revising subsection (a) of Code Section 21-2-502, relating to the issuance of certificates of election and commission, as follows:

"(a) *Governor and other constitutional officers.* Upon completing the tabulation of any election for Governor, Lieutenant Governor, Secretary of State, or Attorney General, ~~State School Superintendent, Commissioner of Insurance, Commissioner of Agriculture, or Commissioner of Labor,~~ the Secretary of State shall lay the same before the Governor upon his or her oath of office as Governor; and the Governor, upon the other constitutional officers taking their oaths of office, shall issue a commission under the great seal of the State of Georgia signed by the Governor and countersigned by the Secretary of State, to each such person. The Secretary of State shall issue the commission to the person elected Governor."

**SECTION 9.**

Said title is further amended in Article 2 of Chapter 5, relating to campaign contributions, by revising paragraph (3) of subsection (a) of Code Section 21-5-30.1, relating to contributions by regulated entities to elected executive officers or candidates, as follows:

"(3) 'Elected executive officer' means the Secretary of State; or the Attorney General; ~~State School Superintendent, Commissioner of Insurance, Commissioner of Agriculture, and Commissioner of Labor.~~"

**SECTION 10.**

Chapter 2 of Title 34 of the Official Code of Georgia Annotated, relating to the Department of Labor, is amended by revising subsections (b) and (c) of Code Section 34-2-3, relating to the election, term of office, compensation, removal, and duties of the Commissioner of Labor, as follows:

"(b) The Commissioner shall be ~~elected by those persons entitled to vote for the members of the General Assembly,~~ appointed by the Governor at his or her pleasure. The Senate shall conduct a hearing during the next legislative session to review the Governor's appointee and shall subsequent to such hearing conduct a vote to confirm such appointee. ~~and his term~~ The Commissioner shall serve ~~be~~ for a term of four years or until the Governor appoints his or her successor and said successor is confirmed by the Senate. The Commissioner elected in the general election in November, 2010, shall continue to serve until the expiration of his or her term and upon the expiration of such term or the vacancy of such office otherwise occurring his or her successor shall be appointed pursuant to this subsection.

(c) The compensation for the Commissioner of Labor shall be ~~compensated in the amount provided for in Code Section 45-7-4,~~ set by the Governor, payable in semimonthly installments, and the Commissioner shall receive such travel expenses and allowances as are provided for in Code Section 45-7-20; provided, however, that pursuant to Code Section 45-7-4, the Commissioner shall in addition thereto be entitled to receive necessary and actual expenses incurred by him or her in the performance of his or her duties as administrator of Chapter 8 of this title.

**SECTION 11.**

Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees, is amended in Chapter 5A, relating to temporary disabilities of elected constitutional executive officers, by revising subsection (a) of Code Section 45-5A-4, relating to the Governor's appointment of persons to perform duties of other officers during temporary disability, as follows:

"(a) In case of the temporary disability of the Secretary of State; or the Attorney General, the State School Superintendent, the Commissioner of Insurance, the Commissioner of Agriculture, ~~or the Commissioner of Labor~~, the Governor shall appoint a person to perform the duties of such elected constitutional executive officer until such time as the temporary disability of such officer ends."

## SECTION 12.

Said title is further amended in Article 1 of Chapter 7, relating to general provisions regarding salaries and fees, by revising subsection (a) of Code Section 45-7-4, relating to the annual salaries of certain state officials, as follows:

"(a) The annual salary of each of the state officials listed below shall be as follows:

(1) Governor. . . . . \$ 60,000.00

An allowance in an amount specified in the appropriations Act shall also be provided for the operation of the Governor's mansion.

(2) Lieutenant Governor. . . . . 54,920.00

(3) Adjutant general

The adjutant general shall continue to receive the pay and allowances under the same procedure as provided by law.

(4) Reserved. ~~Commissioner of Agriculture.~~ . . . . . 100,429.00

(5) Attorney General. . . . . 114,633.00

(6) Reserved.

(7) Reserved. ~~Commissioner of Insurance.~~ . . . . . 100,396.00

(8) Reserved.

(9) Reserved. ~~Commissioner of Labor.~~ . . . . . 100,418.00

~~The above amount of salary for the Commissioner of Labor shall include any compensation received from the United States government and the amount of state funds paid shall be reduced by the amount of compensation received from the United States government.~~

(10) Reserved.

(11) Each member of the Public Service Commission. . . . . 96,655.00

(12) Reserved.

(13) Reserved. ~~State School Superintendent.~~ . . . . . 102,708.00

(14) Secretary of State. . . . . 102,708.00

(15) Reserved.

(16) Reserved.

195	(17) Reserved.	
196	(18) Each Justice of the Supreme Court. . . . .	139,418.00
197	(19) Each Judge of the Court of Appeals. . . . .	138,556.00
198	(20) Each superior court judge. . . . .	99,862.00
199	Each superior court judge shall also receive any supplement paid to such	
200	judge by the county or counties of such judge's judicial circuit as may be	
201	provided for by law. Each superior court judge shall also receive	
202	reimbursement of travel expenses as provided by law.	
203	(21) Each district attorney. . . . .	107,905.00
204	Each district attorney shall also receive any supplement paid to such district	
205	attorney by the county or counties of such district attorney's judicial circuit	
206	as may be provided for by law. Each district attorney shall also receive	
207	reimbursement of travel expenses as provided by law.	
208	(22) Each member of the General Assembly. . . . .	16,200.00
209	(A) Reserved.	
210	(B) Each member of the General Assembly shall also receive the	
211	allowances provided by law. The amount of the daily expense allowance	
212	which each member is entitled to receive under the provisions of Code	
213	Section 28-1-8 shall be as provided in that Code section. The mileage	
214	allowance for the use of a personal car on official business shall be the	
215	same as that received by other state officials and employees.	
216	(C) In addition to any other compensation and allowances authorized for	
217	members of the General Assembly, each member may be reimbursed for	
218	per diem differential and for actual expenses incurred in the performance	
219	of duties within the state as a member of the General Assembly in an	
220	amount not to exceed \$7,000.00 per year. Expenses reimbursable up to	
221	such amount shall be limited to one or more of the following purposes:	
222	lodging, meals, per diem differential, postage, personal services, printing	
223	and publications, rents, supplies (including software),	
224	telecommunications, transportation, utilities, and purchasing or leasing of	
225	equipment. If equipment purchased by a member has a depreciated value	
226	of \$100.00 or less when such member leaves office, the equipment does	
227	not need to be returned to the state. No reimbursement shall be made for	
228	any postage which is used for a political newsletter. No reimbursement	
229	shall be paid for lodging or meals for any day for which a member	
230	receives the daily expense allowance as provided in this paragraph. Such	

231 expenses shall be reimbursed upon the submission of sworn vouchers to  
232 the legislative fiscal office. Such sworn vouchers shall be accompanied  
233 by a supporting document or documents showing payment for each  
234 expense claimed or an explanation of the absence of such documentation.  
235 No sworn voucher or supporting document shall be required for per diem  
236 differential.

237 (D) The amount of per diem differential which may be claimed for each  
238 day under subparagraph (C) of this paragraph shall be the difference  
239 between the daily expense allowance authorized for members of the  
240 General Assembly and \$119.00; provided, however, that the general  
241 appropriations Act for any fiscal year may increase such amount of  
242 \$119.00 per day to an amount not in excess of the federal per diem rate  
243 then in effect for the state capital as specified by the General Services  
244 Administration. Per diem differential shall be paid by the legislative fiscal  
245 office to the member upon the member's notification to the legislative  
246 fiscal office of the days for which the daily expense allowance was  
247 received for which the member wishes to claim the per diem differential,  
248 and the legislative fiscal office shall keep a record of the days for which  
249 per diem differential is so claimed and paid.

250 (E) For the purposes of this paragraph, a year shall begin on the  
251 convening date of the General Assembly in regular session each year and  
252 end on the day prior to the convening of the General Assembly in the next  
253 calendar year. Any voucher or claim for any reimbursement for any year  
254 as defined in this paragraph shall be submitted no later than the fifteenth  
255 of April immediately following the end of such year. No reimbursement  
256 shall be made on any voucher or claim submitted after that date. Any  
257 amounts remaining in such expense account at the end of the first year of  
258 the two year biennium may be claimed for expenses incurred during the  
259 second year of the two year biennium. Any amounts remaining in any  
260 expense account which are not so claimed by April 15 of the year  
261 following the second year of the biennium and any amounts claimed  
262 which are returned as hereafter provided for in this paragraph shall lapse  
263 and shall be remitted by the legislative fiscal office to the general fund of  
264 the state treasury. Any former member of the General Assembly may be  
265 reimbursed for expenses incurred while a member of the General  
266 Assembly upon compliance with the provisions of this paragraph. The  
267 Legislative Services Committee is empowered to provide such procedures



as it deems advisable to administer the provisions of this paragraph, including, but not limited to, definitions of the above list of items for which reimbursement may be made and the form of the voucher or claim which must be submitted to the legislative fiscal office. In the event of any disagreement as to whether any reimbursement shall be made or any allowance shall be paid, the Legislative Services Committee shall make the final determination. In the event any reimbursement is made or any allowance is paid and it is later determined that such reimbursement or payment was made in error, the person to whom such reimbursement or payment was made shall remit to the legislative fiscal office the amount of money involved. In the event any such person refuses to make such remittance, the legislative fiscal office is authorized to withhold the payment of any other moneys to which such person is entitled until the amount of such reimbursement or payment which was made in error shall be realized.

(23) Speaker of the House of Representatives. . . . . 17,800.00

The Speaker of the House of Representatives shall also receive the salary and allowances authorized as a member of the General Assembly. Upon the taking of office by the members of the General Assembly on the convening day of the regular session of the General Assembly in 1983, the annual salary of the Speaker of the House of Representatives shall become \$22,800.00. After such date, the Speaker shall also receive as additional salary a sum equal to the amount of salary over \$30,000.00 per annum which is received by the Lieutenant Governor as of that date or thereafter; and the salary of the Speaker shall be adjusted at the beginning of each term so as to include such additional sum.

(24) President Pro Tempore of the Senate.. . . . 4,800.00

The President Pro Tempore of the Senate shall also receive the salary and allowances authorized as a member of the General Assembly.

(25) Speaker Pro Tempore of the House of Representatives. . . . . 4,800.00

The Speaker Pro Tempore of the House of Representatives shall also receive the salary and allowances authorized as a member of the General Assembly."

**SECTION 13.**

Said title is further amended in Article 2 of Chapter 12, relating to the powers and duties of the Governor, by revising Code Section 45-12-23, relating to the incapacity of the Commissioner of Insurance, as follows:

"45-12-23.

~~Whenever the Governor receives information, deemed by him to be reliable, that the Commissioner of Insurance, by reason of sickness or other providential cause, is unable to perform the duties of his office, the Governor shall call a council to be composed of himself, the Secretary of State, and an appointee of the Governor who is not the Attorney General; and, if such council, or a majority thereof, after investigation and examination into the truth of such report, shall, in writing duly signed, find that such officer is incapable of performing the duties of his office, the Governor, in case of incapacity of the Commissioner of Insurance, shall designate the chief clerk or other clerk then serving in the office of the Commissioner of Insurance to perform the duties of the Commissioner of Insurance during his incapacity. The person so designated to perform the duties of the Commissioner of Insurance shall give bond with good security in the penal sum of \$5,000.00, payable, conditioned, and to be approved in the same manner as the bond required by law to be given by the Commissioner of Insurance. The person designated to perform the duties of the Commissioner of Insurance shall not receive any compensation in addition to that he was, or is, receiving as clerk, but any expense incurred in furnishing the bond required by this Code section and Code Section 45-12-24 shall be borne by the state. When the person designated under authority of this Code section and Code Section 45-12-24 shall have given the bond required and said bond has been approved as required, he shall be authorized to do everything, perform every act, and exercise every prerogative or discretion that the Commissioner of Insurance might do, perform, or exercise under existing law in the absence of his incapacity. Reserved."~~

**SECTION 14.**

Said title is further amended in said article of said chapter by revising Code Section 45-12-24, relating to proceedings upon the cessation of incapacity and the payment of salary of the officer during period of incapacity, as follows:

"45-12-24.

~~Whenever it shall be made to appear to the council composed of the Governor, the Secretary of State, and the Attorney General, as provided in this Code section and Code Section 45-12-23 or a majority thereof, that the incapacity of the Commissioner of Insurance has been overcome and removed, a finding in writing to that effect shall be made and filed in the Governor's office; and thereupon the authority of the person designated to~~

337 ~~act for the Commissioner of Insurance shall come to an end and the Commissioner of~~  
338 ~~Insurance shall assume and perform the duties of his office. During the period of the~~  
339 ~~incapacity of the Commissioner of Insurance, the salaries due as provided by existing law~~  
340 ~~shall continue to be paid. Reserved.~~"

341 **SECTION 15.**

342 Said title is further amended in Article 1 of Chapter 14, relating to general provisions  
343 regarding the Commissioner of Insurance, by revising Code Section 45-14-1, relating to the  
344 election of such Commissioner, as follows:

345 "45-14-1.

346 There shall be a Commissioner of Insurance who shall be ~~elected at the same time and in~~  
347 ~~the same manner as the Governor is elected~~ appointed by the Governor at his or her  
348 pleasure. The Senate shall conduct a hearing during the next legislative session to review  
349 the Governor's appointee and shall subsequent to such hearing conduct a vote to confirm  
350 such appointee. The Commissioner elected in the general election in November, 2010,  
351 shall continue to serve until the expiration of his or her term and upon the expiration of  
352 such term or the vacancy of such office otherwise occurring his or her successor shall be  
353 appointed pursuant to this Code section."

354 **SECTION 16.**

355 Said title is further amended in said article by revising subsection (a) of Code Section  
356 45-14-4, relating to general provisions regarding the compensation of the Commissioner of  
357 Insurance, as follows:

358 "(a) The compensation for the Commissioner of Insurance shall be ~~compensated in the~~  
359 ~~amount and manner provided in Code Sections 45-7-3 and 45-7-4~~ set by the Governor. He  
360 or she shall also be reimbursed for actual transportation costs while traveling by public  
361 carrier, the legal mileage rate for use of a personal automobile, and the actual cost of  
362 lodging and meals while away from his or her office on official state business as provided  
363 in Code Section 45-7-20."

364 **SECTION 17.**

365 All laws and parts of laws in conflict with this Act are repealed.